



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of: **Yasuhito TAIRA**

Group Art Unit: **2176**

Serial No.: **09/704,558**

Examiner: **James H Blackwell**

Filed: **November 3, 2000**

Confirmation Number: **4557**

For: **PROCESSOR WITH SEPARATELY CONFIGURED DISPLAY CONTROL FILE,
CGI SCRIPTS, AND PROCESSING PROGRAM**

Attorney Docket Number: **001475**

Customer Number: **38834**

REQUEST FOR RECONSIDERATION UNDER 37 C.F.R. § 1.111

Mail Stop Amendment
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

March 27, 2006

Sir:

Applicant responds herein to the Office Action mailed November 29, 2005. The period for response thereto is extended by the accompanying Petition for Extension of Time.

Claims 5-8 stand rejected under 35 U.S.C. § 103(a) as obvious over Bayeh et al., U.S. Patent No. 6,012,098. Applicants respectfully submit that the rejection is unjustified.

For example, claim 5 describes a processor, which has an interpreter. The claim specifies that the interpreter "interprets CGI scrip." Claims 6-8 depend from claim 5, so claims 6-8 also describe this subject matter.

Accordingly, to justify the rejection, an Office Action must indicate how Bayeh et al. supposedly teaches or suggests a processor, which has an interpreter that interprets CGI script. The present Office Action indicates that the CPU, which executes software on server 82' in Fig. 4, teaches a "processor" and that the server software teaches an "interpreter." The Office Action further indicates that the software executes Java Servlets.

The rejection does not rely on Bayeh et al. to teach that the interpreter “interprets CGI script” as claimed. Instead, the Office Action states (page 4) that:

it would have been obvious to one of ordinary skill in the art at the time of the invention to assume ... that Servlets and CGI scripts perform the same function.

However, although an obviousness rejection can sometimes be based on substituting one element for another element having equivalent functions, *such equivalence must have been recognized in the prior art*. Under MPEP § 2144.06, the holding of obviousness cannot be based on the mere fact that the elements might have been functional equivalents. Thus, if the rejection is based on Servlets and CGI scripts supposedly having the same function, the Office Action would need to show that such equivalency was known in the prior art at the time of the invention.

As apparently pertinent to the equivalency argument (although admittedly presented on a different page), the Office Action states that Java-based applications have typically replaced traditional CGI scripting but perform the same general function (process data streams and return results). However, the Office Action provides no prior art documentation that such equivalency was known to others. For at least this reason alone, the obviousness rejection is not justified and should be withdrawn.

If, in view of these remarks, the PTO ultimately decides to maintain the obviousness rejection, applicant requests that the PTO provide prior art documentation, which demonstrates the equivalency of Servlets and CGI scripts *in the present context*. Also, applicant requests that the PTO clearly indicate which elements of Bayeh et al. teach the “display control file” and the “processing program” as recited in the rejected claims. (Clear indication for those features was not previously provided, but such indication is necessary for applicant to understand how the PTO relies on the prior art.)

In view of the remarks above, applicant submits that the application is in condition for allowance, and a Notice of Allowability is solicited. If the PTO believes that this application is not in condition for allowance, the Examiner is welcome to contact applicant's undersigned attorney at the telephone number indicated below to discuss resolution of remaining issues.

If this paper is not timely filed, applicant petitions for an extension of time. The fee for the extension, and any other fees that may be due, may be debited from Deposit Account No. 50-2866.

Respectfully submitted,

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Enclosure: Petition for Extension of Time

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